

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

2007 APR 11 A 11:41

CLERK US DISTRICT COURT
ALEXANDRIA, VIRGINIA

ESTA M. CHENOWITH,

Plaintiff,

v.

TARGET STORES, INC.,

and

TARGET CORPORATION,

Defendants.

Case No. 1:07cv 348 Jcc/TCB

NOTICE OF REMOVAL

Defendant Target Corporation¹, which is licensed to do business in Virginia as Target Stores, Inc. ("Target"), by counsel, pursuant to 28 U.S.C.S. § 1332, 28 U.S.C.S. § 1441 and 28 U.S.C.S. § 1446, states as follows for its Notice of Removal:

1. This action is a civil action within the meaning of the Acts of Congress relating to the removal of cases.
2. This action was initiated in the Circuit Court of City of Winchester on May 2, 2006, with the filing of a Complaint, Case No. 2006-L-186. In Plaintiff's Complaint, Plaintiff seeks a judgment in the amount of \$500,000.00 against Target, exclusive of attorneys' fees, interest, and costs. *See* Complaint, attached as Exhibit A.
3. Target was served with the Complaint on March 21, 2007.

¹ Plaintiff improperly names Target Stores, Inc. as the defendant in this action. Target Stores is an unincorporated division of Target Corporation. Target Corporation, which does business as Target Stores, is the only proper defendant in this action.

4. For removal purposes, this action commenced on March 21, 2007, upon the acceptance of service of the Complaint by defendant Target.
5. The amount in controversy exceeds seventy-five thousand dollars (\$75,000.00), exclusive of interest and costs. *See* Exhibit A.
6. Upon information and belief and based on allegations in Plaintiff's Complaint, Plaintiff is, and was at the time of the commencement of this action, a resident of the Commonwealth of Virginia.
7. Target is, and was at the time of commencement of this action for removal purposes, a Minnesota corporation with its principal place of business in Minneapolis, Minnesota.
8. Complete diversity exists between Plaintiff and Defendant and the Defendant is not a citizen of the forum state.
9. Thus, this matter is a civil action over which this Court has diversity jurisdiction pursuant to 28 U.S.C.S. § 1332 and which is removable to this Court pursuant to 28 U.S.C.S. § 1441.
10. Removal of this action is proper under 28 U.S.C.S. § 1446 because:
 - a. this Notice of Removal is being filed within thirty (30) days after acceptance of service of the Complaint by Target on March 21, 2007;
 - b. this Notice of Removal is being filed within one (1) year of March 21, 2007, the date of commencement of the action for removal purposes;
 - c. Defendant has not previously sought similar relief; and
 - d. a copy of all process pleadings and orders served upon Defendant are attached as Exhibit A.
11. Because complete diversity exists between Plaintiff and Target and the amount in controversy exceeds the jurisdictional amount required by 28 U.S.C. § 1332, this Court is vested

with subject matter jurisdiction over this action and the case is properly removable under 28 U.S.C. § 1441(b) (requiring removal within 30 days after service of process).

12. A true and correct copy of this Notice of Removal will be served upon all parties of this action and the Circuit Court for the City of Winchester, promptly after the filing of this Notice, in accordance with the certificate set forth below and with the requirements of law. The clerk of the aforesaid State Court shall effect the removal, and the State Court shall proceed no further unless the case is remanded, as provided by law.

13. Venue for removal of this action to this Court is proper.

14. Target reserves the right to amend or supplement this Notice of Removal.

15. If any questions arise as to the propriety of the removal of this action, Defendant requests the opportunity to present a brief and argument in support of its position that this case is removable.

WHEREFORE, on this 10th day of April, 2007, defendant Target Corporation prays that the above-titled state court action, now pending in the Circuit Court for the City of Winchester, Virginia, bearing Case Number 2006-L-186, be removed to the United States District Court for the Eastern District of Virginia, Alexandria Division.

TARGET CORPORATION

By: Edward H. Starr, Jr.
Of Counsel

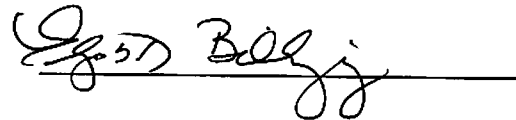
Edward H. Starr, Jr., Esq. (VSB No. 18609)
Heather K. Hays, Esq. (VSB No. 65535)
TROUTMAN SANDERS LLP
1001 Haxall Point
Post Office Box 1122
Richmond, VA 23218-1122
Telephone: (804) 697-1200
Fax: (804) 697-1339

Mary C. Zinsner, VSB No. 31397
Elizabeth A. Billingsley, VSB No. 70808
TROUTMAN SANDERS LLP
1660 International Drive, Suite 600
McLean, Virginia 22102
Telephone: (703) 734-4334
Facsimile: (703) 734-4340
Counsel for Target Corporation

CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of April, 2007, a true copy of the foregoing was mailed via Federal Express next business day delivery, postage prepaid, addressed as follows:

Nate L. Adams, III, Esquire
Nate L. Adams, III, P.C.
Adams and Jones, P.L.C.
11 South Cameron Street
Winchester, Virginia 22601

A handwritten signature in black ink, appearing to read "J. B. Adams", is written over a horizontal line.

323499

VIRGINIA:

IN THE CIRCUIT COURT FOR THE CITY OF WINCHESTER

ESTA M. CHENOWETH

Plaintiff

v.

Case Number 06-00186

TARGET STORES, INC.

Serve: CT Corporation System, Registered Agent
4701 Cox Rd, Ste 301
Glen Allen, VA 23060-6802

TARGET CORPORATION

Serve: CT Corporation System, Registered Agent
4701 Cox Rd, Ste 301
Glen Allen, VA 23060-6802

Defendants

COMPLAINT

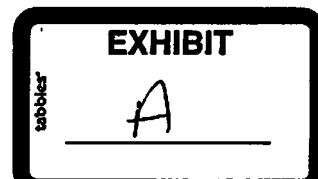
COMES NOW the Plaintiff, Esta M. Chenoweth, by counsel, moves for judgment against Defendants, Target Stores, Inc. and Target Corporation, jointly and severally, on the grounds and in the amount as hereinafter set forth:

1. On or about May 5, 2004, the Plaintiff, Esta M. Chenoweth, was lawfully on the premises owned and/or operated by the Defendants, Target Stores, Inc. and Target Corporation, located at 2340 Legge Boulevard, City of Winchester, Virginia, as a business invitee of the Defendant.

2. The Defendants, Target Stores, Inc. and Target Corporation, are corporations organized under the laws of the State of Minnesota.

3. As the owners and operators of said store, a place of business to which the general

ADAMS AND JONES, P.L.C.
ATTORNEYS AT LAW
11 SOUTH CAMERON STREET
WINCHESTER, VIRGINIA 22601
540.667.7308



public is invited, the Defendants, Target Stores, Inc. and Target Corporation, their agents and employees had a duty at that time to maintain the premises in a reasonably safe condition, to make reasonable inspections to determine whether any latent defects existed, and to warn the public of any such latent defects known to it, its agents and employees.

4. Notwithstanding said duty, the Defendants, Target Stores, Inc., and Target Corporation, their agents and employees, negligently operated and maintained an automatic door into said premises through which business invitees of the store customarily passed while entering the premises. The Defendants, their agents and employees, knew, or in the exercise of reasonable care should have known, that said defect existed.

5. On or about the 5th day of May, 2004, the Plaintiff, Esta M. Chenoweth, a business invitee of the Defendants, was entering the building owned and operated by Target Stores, Inc. and Target Corporation, through the automatic doors located at the entrance to the building. As a direct and proximate result of the negligence of the Defendants, their agents and/or employees, as aforesaid, the doors closed quickly and powerfully, striking the Plaintiff and knocking her over into ATM equipment placed there by the Defendants, their agents, or employees, and ultimately to the ground.

6. As a direct and proximate result of the negligence of the Defendants, their agents, or employees, the Plaintiff sustained serious bodily injury and resulting pain and suffering, disability, disfigurement, mental anguish, loss of the capacity for the enjoyment of life, expense of hospitalization, and medical and nursing care and treatment. The losses are either permanent or continuing and Plaintiff will suffer the losses in the future.

WHEREFORE, the Plaintiff, Esta M. Chenoweth, demands judgment against the Defendants, Target Stores, Inc. and Target Corporation, jointly and severally, in the amount of Five Hundred Thousand Dollars (\$500,000.00), prejudgment interest from May 5, 2004, attorneys fees, and her costs expended in this action.



SANDRA CHENOWETH,
As Power of Attorney for
ESTA M. CHENOWETH



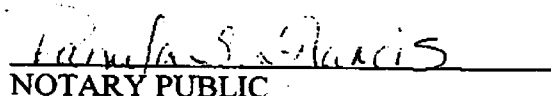
Nate L. Adams, III Esq.
VSB No. 20787
Nate L. Adams, III, P.C.
ADAMS AND JONES, P.L.C.
11 South Cameron St.
Winchester, VA 22601
(540) 667-1330
(540) 667-7165 Facsimile
Counsel for Plaintiff

COMMONWEALTH OF VIRGINIA, AT LARGE,
CITY OF WINCHESTER, to-wit:

I, Tamela S. Francis, a Notary Public in and for the State and jurisdiction aforesaid, do hereby certify that Sandra Chenoweth, whose name is signed to the foregoing Power of Attorney, bearing date on the 17th day of May, 2006, have acknowledged the same before me in my State and jurisdiction aforesaid.

SUBSCRIBED, SWORN TO and ACKNOWLEDGED before me, a Notary Public in and for the State and City aforesaid, this 17th day of May, 2006.

My Commission expires 11-31-2008.


NOTARY PUBLIC

ADAMS AND JONES, P.L.C.
ATTORNEYS AT LAW
11 SOUTH CAMERON STREET
WINCHESTER, VIRGINIA 22601
(540) 667-7165